

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KARLIS RUBEN AUGUSTUS
HOWARD,

Plaintiff,

v.

HEATHER SHIRLEY, *et al.*,

Defendants.

Case No. 1:24-cv-00387-HBK (PC)

ORDER GRANTING PLAINTIFF'S
RENEWED MOTION TO PROCEED *IN*
FORMA PAUPERIS AND REASSESSING
FULL FILING FEE

(Doc. No. 43)

DEFENDANTS TO RETURN
CONSENT/DECLINE OF U.S.
MAGISTRATE JUDGE JURISDICTION
FORM

10-DAY DEADLINE

Pending before the Court is Plaintiff's renewed motion to proceed *in forma pauperis* ("IFP") filed on February 14, 2025. (Doc. No. 43). Plaintiff, a former state prisoner, initiated this action while he was incarcerated. (Doc. No. 1). Although currently released, Plaintiff remains obligated to pay the full amount of the statutory filing fee. 28 U.S.C. § 1915(b)(1). As set forth in the Court's February 3, 2025 Order, the total amount that remains due towards the \$350.00 filing fee is \$350.00. (Doc. No. 41 at 3:4-5). Due to Plaintiff's release from custody, there is no inmate trust account from which periodic filing fees may be garnished and forwarded to the Court. Although the Ninth Circuit has yet to decide how a released prisoner who is obligated to "pay the full amount of a filing fee" under 28 U.S.C. § 1915(b)(1) may proceed IFP after he is


released, “the Ninth Circuit [did note] ‘even prior to the PLRA...district courts possessed authority under the non-PLRA-related provisions of § 1915 to require partial and/or installment payments.’” *Makoni v. Downs*, 2016 WL 7210403, at *3 (S.D. Cal. Dec. 13, 2016) (quoting *Putzer v. Attal*, 2013 WL 4519351, at *2 (D. Nev. Aug. 23, 2013)) (citing *Olivares v. Marshall*, 59 F.3d 109, 111 (9th Cir. 1995)).

Plaintiff’s renewed motion to proceed IFP makes the showing required to proceed IFP, but consistent with the Prison Litigation Reform Act, Plaintiff remains obligated to pay the full \$350.00 statutory filing fee as set forth in 28 U.S.C. § 1915. Given Plaintiff’s current financial situation, the Court will not assess a monthly installment payment at this time. However, Plaintiff remains responsible for the full \$350.00 filing fee and will be required to notify the Court as soon as his financial situation changes.

Accordingly, it is **ORDERED**:

1. Plaintiff’s renewed motion to proceed *in forma pauperis* (Doc. No. 43) is GRANTED. The Court reassesses the \$350.00 filing fee due to Plaintiff’s former prisoner status.
2. Plaintiff must notify the Court within thirty (30) days of any change in his current financial situation, i.e. if Plaintiff secures employment or is deemed eligible to receive any form of federal or state financial assistance.
3. Plaintiff’s failure to timely notify the Court of a change in his financial circumstances may result in sanctions, including the dismissal this action for failing to comply with a Court order consistent with Local Rule 110.
4. Defendants shall return the Consent/Decline to U.S. Magistrate Judge Jurisdiction form (Doc. No. 2-1) within ten (10) days of the date of this Order.
5. Defendants are not required to file a response to Plaintiff’s Second Amended Complaint (Doc. No. 36) until the Court screens the operative pleading.

Dated: February 18, 2025


HELENA M. BARCH-KUCHTA
UNITED STATES MAGISTRATE JUDGE